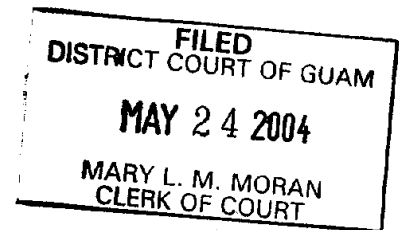


**ORIGINAL**

CARLSMITH BALL LLP

DONALD V. CALVO  
Bank of Hawaii Bldg., Suite 401  
134 West Soledad Avenue, P.O. Box BF  
Hagåtña, Guam 96932-5027  
Tel No. 671.472.6813

Attorneys for Plaintiff  
QBE Insurance International, Inc.



IN THE DISTRICT COURT OF GUAM

QBE INSURANCE (INTERNATIONAL)  
LIMITED,

Plaintiff,

vs.

GOVERNMENT OF GUAM,

Defendant.

TAX CASE NO. CV-04-00011

~~PROPOSED~~ SCHEDULING ORDER  
AND DISCOVERY PLAN

**SCHEDULING ORDER**

Pursuant to Federal Rules of Civil Procedure 16 and 26(f), and Local Rule of Practice 16.1, the parties hereby submit the following Scheduling Order.

1. The nature of the case is as follows.

The case involves a cause of action brought by the QBE Insurance (International) Limited (the "Plaintiff") to recover a claim of refund due and owing to Plaintiff under the Guam Territorial Income Tax. In addition to its claim of refund, Plaintiff seeks damages for interest due therein, costs of suit and reasonable attorneys' fees according to proof.

2. The posture of the case is as follows.

- (a) The following motions are on file: none.
- (b) The following motions have been resolved: none.
- (c) The following discovery has been initiated: none.

3. All Motions to add Parties and Claims shall be filed on or before September 1, 2004.

4. All Motions to Amend Pleadings shall be filed on or before September 1, 2004.

5. Status of Discovery: The Discovery Plan attached hereto is adopted and incorporated as part of this Scheduling Order.

6. The Court has ordered the parties to appear before the District Court on June 2, 2004 at 3:00 p.m. for the Scheduling Conference. ~~The parties, however, agree to waive appearance at the Scheduling Conference.~~ *my*

7. The discovery cut-off date (defined as the last day to file responses to discovery) is February 1, 2005.

8. (a) The anticipated discovery motions are: unknown at this time.

All discovery motions shall be filed on or before March 1, 2005, and heard on or before March 22, 2005.

(b) The anticipated dispositive motions are: unknown at this time.

All dispositive motions shall be filed on or before April ~~30~~ <sup>29</sup> *my*, 2005, and heard on or before May ~~21~~ <sup>20</sup> *my*, 2005.

9. The prospects for settlement are: unknown at this time.

10. The Preliminary Pretrial Conference shall be held on June 28, 2005 (not later than twenty-one (21) days prior to trial date), *my* at 3:00 pm

11. The Parties' Pretrial Materials, Discovery Materials, Witness Lists, Exhibit Lists and Designation of Discovery Responses shall be filed on or before July 5, 2005 (not later than fourteen (14) days prior to trial).

12. The Proposed Pretrial Order shall be filed on or before July 12, 2005 (not later than seven (7) days prior to trial).

13. The Stipulations for trial required under Local Tax Rule 7 shall be filed on or before July 7, 2005 (at least five (5) working days before the Final Pretrial Conference).

14. The Final Pretrial Conference shall be held on July 12, 2005, at 3:00 pm. *my*

15. The trial shall be held on July 19, 2005, *at 9 am. Jmj*
16. It is anticipated that it will take one (1) week to try this case.
17. The names of counsel on this case are:  
For Plaintiff: Donald V. Calvo, Esq.  
For Defendant: Douglas B. Moylan, Esq./William C. Bischoff, Esq.
18. The parties wish to submit this case to a Settlement Conference.
19. The parties present the following suggestions for shortening trial: none at this time.
20. At this time, there are no issues affecting the status or management of the case.

### **DISCOVERY PLAN**

1. Depositions of lay witnesses may begin at once and be taken as needed.  
The parties may call expert witnesses to testify.
2. Unless additional discovery is ordered by the Court, the parties may serve two sets of interrogatories not to exceed 25 and one set of requests for admissions not to exceed 25. The parties may serve any number of requests for production of documents. Unless a shorter time is agreed to, all written discovery shall be served by a date as to afford the answering party the full response time permitted by the applicable rules prior to the Discovery Cutoff.
3. Disclosures and depositions.
  - a. Initial Disclosures under Federal Rule of Civil Procedure 26(a)(1) are due on June 16, 2004, two (2) weeks after the June 2, 2004 Scheduling Conference, and shall be supplemented not later than two (2) weeks after such due date.
  - b. Disclosure of expert testimony required under Federal Rule of Civil Procedure 26(a)(2) shall be made not later than January *3 Jmj*, 2005.
  - c. Subsequent designation of rebuttal expert testimony under Federal Rule of Civil Procedure 26(a)(2) shall be made not later than January *17 Jmj*, 2005.

d. Depositions of experts designated under Federal Rule of Civil Procedure 26(a)(2) and paragraph 3.b. above, shall be completed not later than the discovery cut-off date. Depositions of rebuttal experts, if any are designated under Federal Rule of Civil Procedure 26(a)(2) and paragraph 3.c. above, shall be completed not later than fourteen (14) days after the discovery cutoff.

e. Rule 26(a)(3) disclosures shall be made not later than thirty (30) days before trial.

4. Other than the 25 count limit on Interrogatories and Requests for Admissions, Plaintiff does not anticipate requiring any other changes or limitations on discovery as may be imposed under federal or Local Rules.

5. The discovery cut-off (defined as the last day to file responses to written discovery) is February 1, 2005. Depositions may be taken until the cutoff date and as provided above in paragraphs 3 and 4.

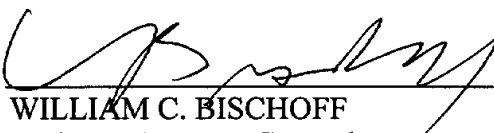
SUBMITTED this 17<sup>th</sup> day of May, 2004.

CARLSMITH BALL LLP

  
DONALD V. CALVO  
Attorneys for Plaintiff  
QBE INSURANCE INTERNATIONAL, INC.


DATED this 17<sup>th</sup> day of MAY, 2004.

OFFICE OF THE ATTORNEY GENERAL  
DOUGLAS B. MOYLAN  
Attorney General

  
WILLIAM C. BISCHOFF  
Assistant Attorney General  
Attorneys for Defendant  
GOVERNMENT OF GUAM

**ORDER**

SO ORDERED this 19<sup>th</sup> day of May, 2004.

  
JOAQUIN V.E. MANIBUSAN, JR., Designated Judge  
District Court of Guam.

**RECEIVED**

**MAY 18 2004**

DISTRICT COURT OF GUAM  
HAGATNA, GUAM 487-8686/458-1052/77-00003